

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2015-053-00559R

Parcel No. 227202004

Harry & Barbara Baumann,

Appellant,

v.

Jones County Board of Review,

Appellee.

Introduction

This appeal came on for telephone hearing before the Property Assessment Appeal Board (PAAB) on September 24, 2015. Appellants Harry and Barbara Baumann were self-represented. Jones County Attorney Phil Parsons represented the Board of Review.

The Baumanns are the owners of residential, one-story dwelling located at 111 Shomont Drive, Monticello, Iowa. The dwelling, which was built in 1989, has 1696 total square feet of living area; a three-quarter basement with 732 square-feet of finish; a 210-square-foot, concrete patio; and a 960 square-foot attached garage. It is listed in average condition and with average construction quality (Grade 4). The site is 0.31-acres.

The property's January 1, 2015, assessment was \$153,000, allocated as \$22,060 in land value and \$130,940 in dwelling value. The Baumanns' protest claimed the property had suffered downward change in value; however, in a reassessment year this claim is akin to a claim that the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(a)(1) (b). See *Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006).

The Board of Review completed an inspection of the property and denied the protest. The Baumanns then appealed to PAAB.

Findings of Fact

The Baumanns assert their property is assessed for more than its fair market value because the dwelling and garage have flooded by run-off from the adjacent farm. Harry Baumann testified they purchased the property in 1999. The adjacent farm field was planted for fifteen years with no water problems on his property until 2013, when it, flooded four times (Ex. 1, photos 2-3) and again in 2014 when it flooded seven times.. (Ex. 1, photos 4-6). They indicate the flooding continued in the spring of 2015, and required two sump pumps to keep the water out of their house. (Ex. 1, photo 7). Baumann testified they also spent \$2000 on two loads of dirt to keep the water from flooding their property.

According to the Baumanns, they requested farm practice changes in a meeting with the USDA, the City Council, a neighbor, and the farm owner. Despite their request, the field was planted in the spring without any changes to the farming. The Baumanns are concerned that when the subject property is listed for sale, they will be required to disclose the flooding problems, which will reduce the selling price of the property. (Ex. 2). For this reason, the Baumanns believe their assessment should have been reduced in 2015, rather than increased by nearly \$10,000.

The Board of Review provided property information on three fairly similar properties in the immediate neighborhood, but not adjacent to the Baumanns' property, nor on the same street. The McDonough property is larger, somewhat newer, has a comparable site size, but has a smaller garage. (Exhibit C). It is assessed at \$177,290. The most recent transfer was from an estate to a family member and not considered a reliable indicator of its fair market value. The Avenarius property is smaller, newer, comparable site size, and has a larger garage. (Exhibit D). It is assessed at \$170,730. It sold in 2013 for \$210,000. Baumann testified neither of the compared properties experience flooding similar to his property. Accordingly, we find that without

adjustments for difference, this evidence does not demonstrate the fair market value of Baumanns' property.

The Board of Review also submitted a map of Baumanns' immediate neighborhood. (Ex. E). It appears the three properties adjacent to the farm field and south of the subject property have a forest buffer between their properties and the field. Baumanns do not have a buffer, which may make their property more susceptible to flooding.

We understand the Baumanns' frustration with the flooding; however, they did not provide any evidence of the property's fair market value such as an appraisal, comparable sales, or comprehensive market analysis, which is necessary to prove over-assessment.

Conclusions of Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. §§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); see also *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

In Iowa, property is to be valued at its actual value, which is its fair and reasonable market value. Iowa Code § 441.21(1)(a). Market value is the value established in an arm's-length sale of the property. § 441.21(1)(b)(1). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* However, sale prices of property in abnormal transaction not reflecting market value shall not be taken into account, or shall be adjusted for distorting factors. *Id.* Abnormal transactions include, but are not limited to, foreclosure or other forced sales. *Id.*

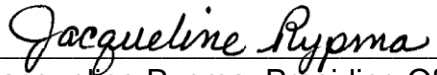
Baumann testified he believes their property's history of flooding has reduced its value. This may be a logical assumption; however, the Baumanns provided no evidence to prove the effect of the flooding on their property's actual value to support their claim of over-assessment.

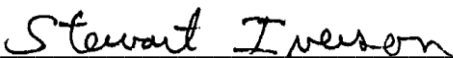
Order


IT IS THEREFORE ORDERED that the Jones County Board of Review's action is affirmed.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

Dated this 28th day of October, 2015.


Jacqueline Rypma, Presiding Officer


Stewart Iverson, Board Chair


Karen Oberman, Board Member

Copies to:

Harry & Barbara Baumann

Phil Parsons